



DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

Docket Number FRA-2011-0015

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated February 10, 2011, Drake Switching Company, LLC (DSC) has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR Part 223. FRA assigned the petition Docket Number FRA-2011-0015.

DSC seeks a waiver of compliance from certain provisions of the Safety Glazing Standards—Locomotives, Passenger Cars and Cabooses, 49 CFR Part 223, which requires certified glazing in all windows.

This request is for a shuttlewagon (Car Number SWX735), which is used as a locomotive. DSC states that this shuttlewagon is equipped with DOT-002 and DOT-22 glazings, instead of the FRA Type I and II glazing required by 49 CFR Part 223. Drake Cement Company's operation requires inbound and outbound rail car movement for raw materials. In order to serve the plant, Drake Cement Company acquired and built approximately 4 miles of yard track and established DSC. The 4-mile track allows the BNSF Railway Company (BNSF) to interchange traffic to and from Drake Cement Company at Drake, AZ. DSC has operating authority from the Surface Transportation Board (STB). DSC also trained its personnel for all

rail operations involved in handling the switching. DSC purchased a new shuttlewagon, SWX735, for its self-propelled power (locomotive).

DSC obtained a quote for modifying the shuttlewagon to compliant glazing. DSC believes this cost is not justified because DSC uses it once or twice a week and 100 percent of the use of the shuttlewagon is restricted to yard movement with speeds less than 10 mph.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at <http://www.regulations.gov> and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Ave., S.E., W12-140, Washington, D.C. 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- Web site: <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- Fax: 202-493-2251.
- Mail: Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, S.E., W12-140, Washington, D.C. 20590.

- Hand Delivery: 1200 New Jersey Avenue, S.E., Room W12-140, Washington, D.C. 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by [INSERT DATE 45 DAYS FROM PUBLICATION OF THIS NOTICE] will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78), or online at <http://www.dot.gov/privacy.html>.

Issued in Washington, DC, on December 14, 2011.

Robert C. Lauby
Deputy Associate Administrator
for Regulatory and Legislative Operations

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